

## **BILL ANALYSIS**

C.S.S.B. 1398  
By: Estes  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There are concerns regarding the method of selecting a political party's national delegates in a Texas presidential primary. For example, it has been a cause of concern that, while Texas is the largest Republican state in the union and has a long and proud history of having political influence on the national stage, Texas Republicans have had a marginal role in the selection of the Republican presidential nominee because the Texas primary election is held relatively late and the proportional delegate system the party uses is not a winner-take-all system. Those expressing such concerns point to Republican Party of Texas rules that require 75 percent of the party's national delegates to be selected based on presidential primary results with the remaining 25 percent allocated among other candidates. The concerned parties believe that the option to implement a winner-take-all system would strengthen the voices of voters in a presidential primary. C.S.S.B. 1398 seeks to authorize changes to the rules governing the allocation of delegates to a political party's national presidential nominating convention.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1398 amends the Election Code to authorize a rule adopted by each political party holding a presidential primary election regarding the allocation of delegates to utilize either a proportional or winner-take-all method of allocation, based on the results of the presidential primary election, which may be based on a direct tie to statewide popular vote totals, a direct tie to congressional or state senatorial district popular vote totals, or an alternative disproportionate method that is based on statewide, congressional district, or state senatorial district popular vote totals. The bill makes this provision inapplicable to delegates allocated among party and elected officials or allocated through an allocation based on participants registering for or attending a caucus or similar process, provided that at least 75 percent of the total number of delegates who are to represent Texas at the party's national presidential nominating convention, excluding delegates allocated among party and elected officials, are required to be allocated in accordance with the rule so adopted based on the results of the presidential primary election. The bill removes a provision specifying the percentage allocation required for the total number of delegates who are to represent Texas at a party's national presidential nominating convention among one or more of the candidates whose names appear on the presidential primary election ballot and, if applicable, the uncommitted status.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1398 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

### SENATE ENGROSSED

SECTION 1. Section 191.007, Election Code, is amended to read as follows:

Sec. 191.007. ALLOCATION OF DELEGATES. (a) Each political party holding a presidential primary election shall adopt a rule for allocating delegates [~~based on the results of the presidential primary election~~].

(b) A rule adopted under this section may utilize either a proportional or winner-take-all method, based on the results of the primary election, which may be based on:

(1) a direct tie to statewide popular vote totals;

(2) a direct tie to congressional or state senatorial district popular vote totals; or

(3) an alternative disproportionate method that is based on statewide, congressional district, or state senatorial district popular vote totals.

(c) Subsection (b) does not apply to delegates allocated:

(1) among party and elected officials; or

(2) through an allocation based on participants registering for or attending a caucus or similar process. [~~At least 75 percent of the total number of delegates who are to represent this state at the party's national presidential nominating convention, excluding delegates allocated among party and elected officials, shall be allocated in accordance with the rule among one or more of the candidates whose names appear on the presidential primary election ballot and, if applicable, the uncommitted status.~~]

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 191.007, Election Code, is amended to read as follows:

Sec. 191.007. ALLOCATION OF DELEGATES. (a) Each political party holding a presidential primary election shall adopt a rule for allocating delegates [~~based on the results of the presidential primary election~~].

(b) A rule adopted under this section may utilize either a proportional or winner-take-all method, based on the results of the **presidential** primary election, which may be based on:

(1) a direct tie to statewide popular vote totals;

(2) a direct tie to congressional or state senatorial district popular vote totals; or

(3) an alternative disproportionate method that is based on statewide, congressional district, or state senatorial district popular vote totals.

(c) Subsection (b) does not apply to delegates allocated:

(1) among party and elected officials; or

(2) through an allocation based on participants registering for or attending a caucus or similar process, **provided that at** [~~At~~] least 75 percent of the total number of delegates who are to represent this state at the party's national presidential nominating convention, excluding delegates allocated among party and elected officials, shall be allocated in accordance with the rule adopted under this section based on the results of the **presidential primary election** [~~among one or more of the candidates whose names appear on the presidential primary election ballot and, if applicable, the uncommitted status~~].

SECTION 2. Same as engrossed version.

effect, this Act takes effect September 1, 2013.